IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERBAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF SEPTEMBER

TWO THOUSAND AND FOUR

PRESENT:

THE HON'BLE MR JUSTICE V. ESWARAIAH

WRIT PETITION No. 25416 of 2001

Between:

K.B. Naidu, E. 411796, Conductor,

Age: 29 years, S/o. Naraiah,

R/o. Venkatapalli (V) Varadaiahgaripalli (P),

Rajampet Mandal, Cuddapah District. ….Petitioner.

AND

1. The APSRTC, Represented by its Regional Manager,

   Cuddapah Region, Cuddapah.

2. The Divisional Manager, APSRTC,

   Cuddapah Division, Cuddapah.

3. The Depot Manager,APSRTC,

   Rayachoty Depot, Rayachoty,

   Cuddapah District. ….Respondents.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents herein in disengaging the petitioner from

service by deleting his name from the selection list instead of regularizing his services vide Proc. No. 02/95(275)/2000-RCTY, Rayachoty, dated 10-5-2001 which was confirmed by the appellate authority and as well as the review authority vide Proc. No. ST/208(36)/2001-RM “C”, Cuddapah, dated 25-6-2001 and Proc. No. PA/20A(38)/2001-RM “C” Cuddapah, dated 23-8-2001 respectively as illegal, unjust and arbitrary, violative of principles of natural justice and as such liable to be set aside in the interest of justice.

Counsel for the petitioner: Mr. S.M.Subhan

Counsel for the respondents: Mr. A.V.Sivaiah.

The Court made the following order:

The petitioner questions the action of the third respondent discharging him from service by deleting his name from the approved list/select list, which was confirmed by the appellate authority as well as the reviewing authority.

It is the case of the petitioner that he was appointed as a conductor in the respondent-Corporation by a duly constituted selection committee in the year 1998 and that he has worked for seven months at Rajampet depot and thereafter, he has worked for about ten months in Rayachoty depot. While so, the third respondent issued a show cause notice on 25-4-2001 to the petitioner to explain as to why his name should not be deleted from the approved list/select list and that for the said show cause notice, the petitioner has submitted his explanation denying all the allegations made against him. Third respondent after considering the explanation submitted by the petitioner passed the impugned order dated 10-5-2001 stating that the petitioner has not improved his performance, and therefore, his name be deleted from the approved list/select list. Against the said order, the petitioner has preferred an appeal to the second respondent and the second respondent rejected the appeal holding that no appeal lies by order dated 25-6-2001. Aggrieved by the said order, the petitioner has filed a review petition before the first respondent and the first respondent has passed an order dated 23-8-2001 rejecting his petition stating that there is no provision of review.

It is submitted by the learned counsel appearing for the petitioner that the

issue involved in this writ petition is squarely covered by the judgment of this Court in W.P.No.401 of 2000 dated 22-6-2000, wherein it was held by a learned single Judge of this Court that whenever certain charges have been levelled in the show cause notice and if the said charges were denied in the reply, it is imperative on the part of the respondents to conduct an enquiry. For the contention raised by the learned counsel for the respondents therein that the Corporation rules do not contemplate an enquiry with respect to daily wage workers, this Court held that that might be so, but it is against the rules of natural justice to punish a person by creating a stigma which would hurt the temporary employee throughout his life.

It is further stated by the learned counsel for the petitioner that by following the above said judgment another writ petition in W.P.No.4837 of 2003 was allowed on 29-4-2003. Aggrieved by the same, APSRTC preferred an appeal before this Court in W.A.No.1259 of 2003 and a Division Bench of this Court by order dated 29-8-2003, dismissed the said writ appeal holding that the removal of the name of the casual employee from the approved list without conducting an enquiry is not sustainable.

Following the judgment in W.P.No.401 of 2000 dated 22-6-2000, this writ petition is allowed since the impugned order dated 10-5-2001 has been passed without conducting enquiry which creates a stigma on the petitioner. Therefore, the impugned order 10-05-2001, as confirmed by the appellate authority as well as reviewing authority cannot be sustained and accordingly they are quashed. However, the respondents shall be at liberty to proceed in the matter in accordance with law, if they so desire. No order as to costs.

1-9-2004

lvl

To,

1. The APSRTC, Represented by its Regional Manager,
   Cuddapah Region, Cuddapah.
2. The Divisional Manager,
   APSRTC, Cuddapah Division, Cuddapah.
3. The Depot Manager,
   APSRTC, Rayachoty Depot, Rayachoty,
   Cuddapah District.

4. Two CD copies.